

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

William C. Mitchell,)	
)	C/A No. 2:07-3259-MBS
Plaintiff,)	
)	
vs.)	
)	
Sheriff Al Cannon, Charleston County)	
Sheriff Department; Sheriff Al Cannon,)	
personally; Deputy Stephen C. Gates,)	
personally; Deputy Chad W. Rood,)	
personally; Timothy Richard Branham,)	
personally; Cypress Recovery,)	
)	
Defendants.)	
)	

O R D E R

Plaintiff William C. Mitchell, appearing pro se, filed this action in the Court of Common Pleas for Charleston County on August 20, 2007, alleging deprivation of his constitutional rights and state law causes of action arising out of the repossession of his vehicle. The case was removed to this court on September 27, 2007.

This matter is before the court on “Notice of Appeal and Objection and Motion of Reconsideration and Memorandum in Support of Motion for Default” filed by Plaintiff on November 1, 2007 (Entry 18). Plaintiff contends that the Clerk of Court erred in not entering default against Defendants Charleston County Sheriff’s Department, Sheriff Al Cannon, Deputy Stephen C. Gates, and Deputy Chad W. Rood (the “Charleston County Defendants”).

The court’s review of the file indicates that the Charleston County Defendants were served with copies of the summons and complaint on or after August 28, 2007. The case was removed on September 27, 2007, which was within thirty days of service as required by 28 U.S.C. §§ 1441(e)(1) and 1446(b). The Charleston Defendants thereafter filed an answer to the complaint on October 4,

2007, which was within the five day period subsequent to the date of removal, as provided by Fed. R. Civ. P. 81(c)(2)(3), excluding weekends and holidays, as provided by Fed. R. Civ. P. 6(a).

The court concludes that the Charleston Defendants' answer was timely filed, and the Clerk of Court correctly declined to enter default when requested by Plaintiff. Accordingly, Plaintiff's "Notice of Appeal and Objection and Motion of Reconsideration and Memorandum in Support of Motion for Default" (Entry 18) is denied. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

January 22, 2008.